



Austin City Council MINUTES

For June 23, 1983 - 5:00 P.M.
EMERGENCY SPECIAL CALLED MEETING

Council Chambers, 301 West Second Street, Austin, Texas

City Council

Ron Mullen
Mayor

John Treviño, Jr.
Mayor Pro Tem

Council Members
Mark Rose
Roger Duncan
Sally Shipman
Mark E. Spaeth
Charles E. Urdy

Nicholas M. Meiszer
City Manager

Elden Aldridge
Acting City Clerk

Memorandum To:

Mayor Mullen called to order the Emergency Special Called Meeting, set for 5:00 p.m. at 5:01 p.m., noting the absence of Councilmember Urdy. Mayor Mullen announced the purpose of the meeting is to consider authorizing the City Attorney to file a motion and other related documents to reopen the hearing regarding the pending Round Rock application before the Public Utility Commission for a Certificate of Convenience and Necessity.

Ms. Sharlene Neibauer, Senior Assistant City Attorney, stated, "We have been requested to have a resolution attached to our motion to re-open the hearing. The General Counsel's Office felt it would be a great help to have a formal motion passed by the City Council and know exactly what it is that is different from the City Council a few months ago. We need to file this as soon as possible, tomorrow if we can, and we need to have the resolution. We further need to know whether you want to file a Certificate of Convenience and Necessity Application to file for a service area of your own and if so, what service area you want. This is pending litigation on the Round Rock issue. You can go into Executive Session to discuss the strategy if you would like to or we can discuss it out here."

Mayor Mullen asked Ms. Neibauer to read the two versions of the resolution, designated as "A" and "B". See Attachment I and Attachment II.

Motion

Councilmember Duncan made a motion, seconded by Mayor Pro Tem Treviño to adopt resolution "A".

Councilmember Duncan said he thinks it is a good resolution and "I think it is necessary for us to let Round Rock and the other cities in our ETJ know that we intend to service this area and do not intend to release our ETJ, that we intend to pursue an aggressive annexation policy."

Councilmember Rose asked, "You do not intend to file a Certificate of Necessity?" Ms. Neibauer said that was included in Resolution "B".

Amendment to Motion

Councilmember Duncan amended the motion to adopt resolution "B".

Councilmember Rose asked, "Assuming that we adopt Resolution "B", which is filing for the Certificate of Necessity, my question would be whether it would be for a portion of our service area, all the service area or all the ETJ? Correct?" Ms. Neibauer said, "That is correct." Councilmember Rose said, "You would need staff instruction as to what area to serve." Ms. Neibauer told him any application requires you set out the service area you desire.

Friendly Amendment

Councilmember Rose offered a friendly amendment to designate the ETJ.

Councilmember Duncan stated "It is worded to protect its ability to serve all areas of its extraterritorial jurisdiction. I assume that would be the service area requested in the CCN." Ms. Neibauer said, "That or it can be modified." Councilmember Duncan said he accepts any friendly amendment to include ETJ.

Councilmember Rose said, "Then that would be my amendment as stated by....." Councilmember Duncan said, "I just thought that's what it was saying."

Councilmember Shipman asked, "If we go into this, what are the implications for the rest of our area?" She said she thought the filing of a CCN was required by all utilities.

Carl Schwing, Director of Water and Wastewater, stated "Municipalities are exempt from filing Certificates inside the City limits. Once you go outside you are just like anybody else and if you want to protect your turf you go ahead and file the Certificate. It does put additional accounting requirements and reporting requirements on the utility. They have a different set of accounting rules we would have to go by. It does, automatically, put all of your rates in front of them for review. The other thing is, before we get carried away I'd like for us to look at this ETJ map and see what we are committing ourselves to. That goes all the way to the other side of Lakeway if we go the five-mile route. We are stating that we are willing, ready and able to serve, provide adequate service upon demand without discrimination."

Councilmember Rose said he understands "All this does is give us first right of refusal and all we need to do is say we do not choose to serve that particular area and they can get service from someone else."

Council began to discuss and it was decided to go into Executive Session.

EXECUTIVE SESSION

Mayor Mullen announced that Council will go into Executive Session pursuant to Article 6252-17 V.T.C.S. to discuss pending litigation before the Public Utility Commission regarding City of Round Rock application for a Certificate of Convenience and Necessity. (Section 2, Paragraph e)

RECESS

Council recessed for Executive Session at 5:20 p.m. and resumed its recessed meeting at 6:05 p.m.

Motion Restated

Councilmember Duncan made a motion to adopt Resolution "A", which is a request to reopen a hearing before the Texas Public Utility Commission regarding the Round Rock Certificate of Convenience and Necessity, based on the new grounds that we have a new City Council at this stage and that we may want to consider other aspects of service in the area. The motion was seconded by Mayor Pro Tem Trevino. Motion passed by acclamation, 6-0 with Councilmember Urdy absent.

Motion

Councilmember Duncan made a motion requesting the City Manager to start the proceedings for annexation in the area of FM 1325, FM 620 and Highway 183. Mayor Mullen seconded the motion.

Councilmember Shipman said, "The 183, I think, will be in Cedar Park's ETJ..." it will be whatever we can on 183."

Roll Call on Motion

6-0 Councilmember Urdy absent

ADJOURNMENT

Council adjourned its meeting at 6:10 p.m.

R E S O L U T I O N

WHEREAS, an application is before the Texas Public Utility Commission which would, if approved, grant to the City of Round Rock a Certificate of Convenience and Necessity to provide exclusive service to a large portion of the City of Austin's northern extraterritorial jurisdiction; and

WHEREAS, the prior City Council did not take action to extend service to the area in dispute; and

WHEREAS, a hearing was held on this application on May 16, 1983 one day after the present City Council took office; and

WHEREAS, it is the intent of the present City Council to provide water and sewer to its extraterritorial jurisdiction and to fund such projects as are necessary; and

WHEREAS, the City Council recognizes that the Public Utility Commission Hearings Examiner conducted her hearing on this matter before the present City Council had an opportunity to set forth its policy; and

WHEREAS, the City Council is desirous of having an opportunity to present to the Public Utility Commission Hearings Examiner its new policy and intent to serve the area in dispute; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Council directs the City Attorney to file a request with the Public Utility Commission to reopen the hearing on the

ATTACHMENT I (page 2)

application of the City of Round Rock to allow the City of Austin to present further evidence on the ability of the City of Austin to provide service itself to the area of dispute;

ADOPTED: _____, 1983. ATTEST: _____

James E. Aldridge
Acting City Clerk

23JUN83
SN:jkg

R E S O L U T I O N

WHEREAS, an application is before the Texas Public Utility Commission which would, if approved, grant to the City of Round Rock a Certificate of Convenience and Necessity to provide exclusive service to a large portion of the City of Austin's northern extraterritorial jurisdiction; and

WHEREAS, the prior City Council did not take action to extend service to the area in dispute; and

WHEREAS, a hearing was held on this application on May 16, 1983 one day after the present City Council took office; and

WHEREAS, it is the intent of the present City Council to provide water and sewer to its extraterritorial jurisdiction and to fund such projects as are necessary; and

WHEREAS, the City Council recognizes that the Public Utility Commission Hearings Examiner conducted her hearing on this matter before the present City Council had an opportunity to set forth its policy; and

WHEREAS, the City Council is desirous of having an opportunity to present to the Public Utility Commission Hearings Examiner its new policy and intent to serve the area in dispute; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Austin to seek its own Certificate of Convenience and Necessity for water and sewer from the Public Utility Commission in order to protect its ability to serve all areas of its

extraterritorial jurisdiction which may in the future be annexed to the City of Austin; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Council directs the City Attorney to file a request with the Public Utility Commission to reopen the hearing on the the application of the City of Round Rock to allow the City of Austin to present further evidence on the ability of the City of Austin to provide service itself to the area of dispute; Now, Therefore,

BE IT FURTHER RESOLVED:

That the City Attorney be, and is hereby, directed to file an application with the Public Utility Commission for a Certificate of Convenience and Necessity for water and sewer.

ADOPTED: _____, 1983. ATTEST: _____
James E. Aldridge
Acting City Clerk

23JUN83
SN:jkg